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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/734,579	12/13/2000	Masayuki Shibuta	2000-1704A	6499

7590 04/11/2002
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Washington, DC 20006

EXAMINER

ELKASSABGI, HEBBA

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 04/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/734,579

Applicant(s)

SHIBUTA, MASAYUKI

Examiner

Heba Elkassabgi

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09734579.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

Figures 10 and 11 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1,3,4, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kashimura J.P. Application 10313549 and further in view of Ubukawa et al. J.P. Application 10336949A.

a. Kashimura discloses in Figure #2 a vibration generating motor (1) in which the vibrator (4) is fixed to a rotating shaft (5) of the motor with a eccentric load portion (AA) that comprises of a groove portion (6) that the rotary shaft (5) is secured with the side

walls (8) of the eccentric load portion (AA) bulging to form side edge portions of the groove portions. However, Kashimura does not illustrate a tip portion of the end surface of the sidewall caulked from the opening side of the groove portion to the bottom side.

b. Ubukawa illustrates in Figure 4 the tip portion end surface of the sidewall (8) is caulked (10) from the opening side of the groove (6).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify Kashimura's invention by having the tip portion of the end surface of the side wall caulked from the opening side of the groove in order fix a vibrator without bending a rotating shaft in the case of fixing the vibrator to the rotating shaft by caulking the shaft with an attaching member.

c. Referring to claim 3, no patentable weight has been given to the method of manufacturing limitations (i. e. by caulking from the opening side of the groove portion to the bottom side), since "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

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d. In regards to claim 4, Kashimura discloses the claimed invention except for the range of the width of the tip portion end surface or the flat surface from the side of the groove. It would have been obvious to one having ordinary skill in the art at the time the invention was made to propose with the desired range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

e. In regards to claims 4 and 5, where the range of article sizes disclosed in the prior art envelopes the recited range, and there is no showing of criticality of the recited range, such recited range would have been one of ordinary skill in the art. In re Reven, 390 F.2d 997, 156 USPQ 679.

f. In regards to Claims 4 and 5, a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237.

2. Claims 2, 6, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kashimura J.P. Application 10313549 and further in view of Fukuoka et al. J.P. Application 11089170 A and Ubukawa et al. J.P. Application 10336949A.

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a. Kashimura illustrates in Figure 2 a vibration generating motor (1) in which the vibrator (4) is fixed to a rotating shaft (5) of the motor with an eccentric load portion (AA) that comprises of a groove portion (6) that the rotary shaft (5) is secured into the sidewalls (8) that form the side edge portions. However, Kashimura does not illustrate the eccentric load to be of fan shape and that the groove portion for receiving the rotary shaft is of a flat surface with the groove portion caulked from the opening side to the bottom.

b. Fukuoka et al. in Figure 3 illustrates an eccentric load (8) that is of fan shape in which the groove portion (AAA) receives the rotary shaft (4) on a flat surface (BBB) and is caulked from the opening side the bottom side with the sidewalls (6a and 6b) forming the side edges of the groove portions.

c. Ubukawa illustrates in Figure 4 the tip portion end surface of the sidewall (8) is caulked (10) from the opening side of the groove (6).

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify Kashimura's invention by having the tip portion of the end surface of the side wall caulked from the opening side of the groove in order fix a vibrator without bending a rotating shaft in the case of fixing the vibrator to the rotating shaft by caulking the shaft with an attaching member. As well as having the eccentric load is of fan shape in order to improve the working efficiency.

d. Referring to claim 6, no patentable weight has been given to the method of manufacturing limitations (i. e. by caulking from the opening side of the groove portion to the bottom side), since "even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

e. In regards to claim 7, Kashimura discloses the claimed invention except for the range of the width of the tip portion end surface or the flat surface from the side of the groove. It would have been obvious to one having ordinary skill in the art at the time the invention was made to propose with the desired range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

f. In regards to claims 7 and 8, where the range of article sizes disclosed in the prior art envelopes the recited range, and there is no showing of criticality of the recited range, such recited range would have been one of ordinary skill in the art. *In re Reven*, 390 F.2d 997, 156 USPQ 679.

g. In regards to Claims 7 and 8, a change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237.

Allowable Subject Matter

Claims 3 and 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heba Elkassabgi whose telephone number is (703) 305-2723. The examiner can normally be reached on M-Th (6:30-3:30), and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3431 for regular communications and (703) 305-3432 for After Final communications.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

HYE
April 7, 2002


NESTOR RAMIREZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800